

117TH CONGRESS  
2D SESSION

**S. 2089**

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**AN ACT**

To amend title 38, United States Code, to ensure that grants provided by the Secretary of Veterans Affairs for State veterans' cemeteries do not restrict States from authorizing the interment of certain deceased members of the reserve components of the Armed Forces in such cemeteries, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Burial Equity for  
 5       Guards and Reserves Act of 2021”.

6       **SEC. 2. PROHIBITIONS ON RESTRICTING INTERMENT OF**  
 7                       **CERTAIN INDIVIDUALS IN CERTAIN STATE**  
 8                       **VETERANS’ CEMETERIES.**

9       (a) GRANTS.—Section 2408 of title 38, United States  
 10      Code, is amended—

11               (1) in subsection (d)(2), by striking “The Sec-  
 12               retary may” and inserting “Except as provided in  
 13               subsection (i), the Secretary may”;

14               (2) by redesignating subsection (i) as subsection  
 15               (k); and

16               (3) by inserting after subsection (h) the fol-  
 17               lowing new subsections:

18               “(i)(1) The Secretary may not establish a condition  
 19               for a grant under this section that restricts the ability of  
 20               a State receiving such a grant to inter in a veterans’ ceme-  
 21               tery owned by that State any individual described in para-  
 22               graph (2) solely by reason of the ineligibility of such indi-  
 23               vidual for burial in an open national cemetery under the  
 24               control of the National Cemetery Administration under  
 25               section 2402(a) of this title.

1       “(2) An individual described in this paragraph is the  
2 following:

3           “(A) Any member of a reserve component of  
4 the Armed Forces who was discharged or released  
5 from service under conditions other than dishonor-  
6 able or whose death occurs under conditions other  
7 than dishonorable while a member of such a reserve  
8 component.

9           “(B) Any member of the Army National Guard  
10 or the Air National Guard who was discharged or  
11 released from service under conditions other than  
12 dishonorable or whose death occurs under conditions  
13 other than dishonorable while a member of the Army  
14 National Guard or the Air National Guard.

15           “(C) Any member of the Reserve Officers’  
16 Training Corps of the Army, Navy, or Air Force  
17 whose death occurs under conditions other than dis-  
18 honorable while a member of the Reserve Officers’  
19 Training Corps of the Army, Navy, or Air Force.

20           “(D) Any spouse of any member described in  
21 subparagraphs (A) through (C).

22           “(E) Any minor child or unmarried adult child  
23 (as such terms are defined in section 2402(a) of this  
24 title) of any member described in subparagraphs (A)  
25 through (C).

1       “(j) The Secretary may not deny an application for  
 2 a grant under this section solely on the basis that the  
 3 State receiving such grant may use funds from such grant  
 4 to expand, improve, operate, or maintain a veterans’ ceme-  
 5 tery in which interment of individuals described in sub-  
 6 section (i)(2) is allowed.”.

7       (b) PROHIBITION ON ENFORCING CERTAIN CONDI-  
 8 TIONS ON GRANTS FOR STATE VETERANS’ CEME-  
 9 TERIES.—The Secretary of Veterans Affairs may not en-  
 10 force a condition on a grant described in subsection (i)(1)  
 11 of section 2408 of title 38, United States Code, as added  
 12 by subsection (a), that was established before the date of  
 13 the enactment of this Act.

14       (c) PLOT ALLOWANCES.—Section 2303 of title 38,  
 15 United States Code, is amended—

16               (1) in subsection (b)—

17                       (A) by amending paragraph (1) to read as  
 18 follows:

19               “(1) the Secretary shall pay to the relevant  
 20 State, agency, political subdivision, or tribal organi-  
 21 zation, as the case may be, the sum of \$700 (as in-  
 22 creased from time to time under subsection (c)) as  
 23 a plot or interment allowance for such veteran if the  
 24 veteran is buried (without charge for the cost of a

1 plot or interment) in a cemetery, or a section of a  
 2 cemetery, that—

3 “(A) is used solely for the interment of  
 4 persons who are—

5 “(i) eligible for burial in a national  
 6 cemetery;

7 “(ii) members of a reserve component  
 8 of the Armed Forces not otherwise eligible  
 9 for such burial or former members of such  
 10 a reserve component not otherwise eligible  
 11 for such burial who are discharged or re-  
 12 leased from service under conditions other  
 13 than dishonorable; or

14 “(iii) described in section 2408(i)(2)  
 15 of this title; and

16 “(B) is—

17 “(i) owned by a State or by an agency  
 18 or political subdivision of a State; or

19 “(ii) on trust land owned by, or held  
 20 in trust for, a tribal organization.”; and

21 (B) in paragraph (2), by inserting “tribal  
 22 organization,” after “of a State,”; and

23 (2) by adding at the end the following new sub-  
 24 section:

1       “(e) In this section, the terms ‘tribal organization’  
2 and ‘trust land’ have the meanings given those terms in  
3 section 3765 of this title.”.

Passed the Senate March 7, 2022.

Attest:

*Secretary.*



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